
**THE 2009 ANNUAL
CHURCH & CHARITY LAW™ SEMINAR**

Toronto – November 10, 2009

**CRA Update
including
“What to Do If Your Charity Is Offside”**

Cathy Hawara, Director General
Charities Directorate, Canada Revenue Agency - Ottawa

CARTERS™.ca

Carters Professional Corporation / Société professionnelle Carters
Barristers, Solicitors & Trade-mark Agents / Avocats et agents de marques de commerce

Ottawa (613) 235-4774
Mississauga (905) 306-2791
Orangeville (519) 942-0001
Toll Free: 1-877-942-0001

www.charitylaw.ca™



**Canada Revenue Agency:
Charities Directorate Update**
Cathy Hawara, Director General

Church and Charity Law Seminar – November 10, 2009



Today's Presentation

- What is the role of the Charities Directorate?
- Review of recent developments:
 - Disbursement Quota (DQ)
 - Revised Annual Information Return -T3010B
 - New guidance posted on Web site
 - Enhanced service
 - Web site enhancements
 - Compliance activity
 - SARC progress
- Going offside – four common mistakes
- What is upcoming for 2010?

2

What is the role of the Charities Directorate?

- The Charities Directorate is the section of the Canada Revenue Agency responsible for the administration of provisions of the Income Tax Act relating to registered charities.
- What we do:
 - Educate through a variety of means, including charities information sessions, publications and our Web site
 - Process applications for registered charity status
 - Monitor annual information returns
 - Ensure compliance through audits and, where necessary, apply sanctions
 - Educate the public on donating wisely to charities through direct mail and Web site information

3

**Review of 2008-2009:
What's new with the Disbursement Quota?**

- 3.5% of property not used in charitable activities or administration now applies to DQ calculation of all charities (for fiscal periods starting in 2009)
- However, all charities (including foundations) with less than \$25,000 of property not used in charitable activities or administration are not subject to 3.5% component of the DQ
- Charitable organizations should keep track of their investments, i.e. which are enduring property and which are not, and manage investments in order to meet this requirement.

4

What is the T3010B?

- Revised annual information return with simplified core section, and separate schedules for:
 - Foreign activities
 - Revenues over \$100,000
 - Compensation of directors
- Intended to make filing easier for small charities
- Note that all charities filing for a fiscal period ending in 2009 must file the T3010B form – the older T3010A form will be rejected

5

What new guidance has been released?

- New guidance in 2009:
 - Fundraising
 - Research
 - Sports
 - Human rights (draft)
 - Foreign activities (draft)
- Guidance currently under development:
 - Advancement of religion
 - Protection of the environment
 - Promotion of the arts
 - Alternative medicine

6

Enhanced service

- In 2008-09, 4,585 applications for charitable status were resolved – a 25% increase in productivity over the previous two years.
- That pace has continued in the current fiscal year
- This resulted in a reduction of about 60% in the inventory of applications, from a peak last fiscal year of 3,223 to about 1,300 currently.
- The total inventory of written enquiries in our Client Service Section has been reduced by about 90%.

7

Enhancements to our Web site

- Webinars introduced – interactive presentations similar to a Charities Information Session (Roadshow)
- Samples of a completed T3010B posted online for reference purposes
- Many forms are now available for download in a saveable PDF format

8

Compliance activity

- Completed a total of 851 audits in fiscal year 2008-09
 - 48 charities were revoked "for cause" (this excludes charities revoked for failure to file the annual information return)
 - The majority of audits resulted in no change, or education or compliance agreements (about 89%)
- Continued to review and audit charities involved in tax shelters. Issued warnings to those involved and where necessary, revoked registration.

9

What is the status of the CRA's review of tax shelters?

- Since 2007 the CRA has revoked 33 charities for participating in tax shelters.
- These charities were responsible for the issuance of between \$2 and \$3 billion of tax receipts.
- The CRA continues to audit tax shelters and post warnings about participating in tax shelters on its Web site.

10

What SARC recommendations have been implemented?

- The Small and Rural Charities initiative has led to many changes:
 - SARC-specific Web pages, including updates on the progress in implementing the recommendations;
 - the development of a virtual resource manual for charities (maintaining charitable registration);
 - the development of a toolbox for directors, officers, and volunteers;
 - the publication of samples of a return, a financial statement, and worksheets; and
 - the posting of new web pages for the webinars and webcasts.
- \$3.1 million was announced in April 2009 to assist with education and information programs for small and rural charities.

11

Four common mistakes charities make ... and what to do about them

- Some of the most common errors include:
 - Not meeting the disbursement quota requirement
 - Gifting to a non-qualified donee
 - Giving a receipt in exchange for a service
 - Carrying out non-charitable activities

12

Mistake #1 – not meeting the disbursement quota (DQ)

- Many of the DQ issues that we see are due to reporting errors on the T3010.
- If a charity does not meet its DQ:
 - Verify numbers on the T3010
 - Use past disbursement excesses to offset any current shortfall
 - Carry forward the shortfall and spend more the following year
 - Consider special provisions in the Act that can help, such as permission to accumulate funds

13

Not meeting the DQ (continued)

- After taking all possible preventative measures, if a charity still cannot meet its DQ for two or more consecutive years it should consider:
 - Changing procedures, policies or purposes
 - Developing a plan to meet the DQ and to make up for any past shortfalls

14

Mistake #2 – gifting to non-qualified donees

- The Act only allows charities to gift money or other property to “qualified donees”.
- With the best intentions, charities sometimes make gifts to non-qualified donees, e.g. to a foreign charity doing good work, or a visiting pastor.
- However, this violates the Act, and the charity could be revoked. The charity should:
 - Take all reasonable steps to recover the money
 - Cease providing gifts to non-qualified donees
 - Review our documents on allowable activities for charities (checklists, foreign activity guidance, etc.)

15

Mistake #3 – giving a receipt in exchange for a service

- Charities can only issue tax receipts when property is transferred to them, e.g. cash, a car, stocks, etc.
- If someone donates their skill, time, and effort, there is no actual transfer of property – no receipt may be issued.
- If a charity has issued a receipt for a service:
 - Advise the recipient of the error and cancel the receipt (fax details to your local Tax Services Office)
 - In the future, use cheque exchanges (pay for the service, service provider can then voluntarily donate the payment back and a receipt may be issued)

16

Mistake #4 – carrying on a non-charitable activity

- Charities will sometimes add a new activity without consulting the Charities Directorate; the activity may not further a charitable purpose.
- Before undertaking a new activity:
 - Consider contacting the Charities Directorate to ensure the activity is charitable
 - Review the charity's formal purposes to confirm the activity falls within its mandate
 - Amend the charity's purposes, if necessary
- If an activity does not further a charitable purpose:
 - Stop carrying on the activity immediately
 - Take any appropriate, legal measures to recover funds spent or committed

17

What if the Charities Directorate discovers a mistake?

- If the Charities Directorate discovers an honest mistake, the most common result is education.
- However, under the Act, the Charities Directorate can apply sanctions where it feels they are warranted, up to and including revocation of charitable status.
- As a rule, the Charities Directorate will take steps to ensure that the non-compliance does not reoccur.

18

What are our current priorities in the Charities Directorate?

- The Charities Directorate's major priorities include continuing to reduce:
 - inventories of written inquiries
 - delays in resolving applications
- And continuing to:
 - implement the recommendations of the Small and Rural Charities initiative
 - take actions against charities wilfully engaging in abusive tax receipting practices

19

What is upcoming for 2010?

- Beginning January 1, 2010, the Charities Directorate will take more active steps to ensure that charities provide financial statements with their annual T3010 information return.
- The Act requires charities to keep books and records of their financial information, and provide these documents to the Minister upon request.
- A charity's financial statements do not have to be prepared by an accountant or other professional, although larger charities will likely benefit from this service.

20

What are the priorities for 2010-2011?

- We are currently developing our priorities for next year.
- We still;
 - need to focus on improving the level of service we provide to charities
 - need to work hard to prevent abusive tax receipting practices
 - need to consult and work more than ever with charities to ensure that we create the right regulatory environment

21

Thank you.

Client Services – general inquiries
1-800-267-2384 (English)
1-888-892-5667 (bilingual)

Charities Information on the Web
WWW.CRA.GC.CA/CHARITIES

Charities Electronic Mailing List
To connect, follow the Outreach and
Communications link on main page


